

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	
	:	CASE NO. <u>CR 08-1323-1</u>
Plaintiff,	:	
vs.	:	Hon. Linda Reade
	:	Chief Judge
LAURA ALTHOUSE,	:	
Defendant.	:	

DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

COMES NOW the Defendant by and through the undersigned, and pursuant to F.Cr.P. 11(d)(2)(B), moves the Court to allow her to withdraw her prior plea of guilty as follows:

1. As part of the plea agreement in this case, on October 29, 2008 the Defendant entered a guilty plea to Count 2, to wit: Aggravated Identity Theft, in violation of 18 U.S.C. §1028A(a)(1), a Class E felony. Sentencing is scheduled for May 13, 2009.
2. On May 4, 2009, in *Flores-Figueroa v. United States*, (No. 08-108), the Supreme Court found that a conviction under 18 U.S.C. §1028A requires that a person utilizing false documentation have knowledge that the documentation is in fact that of a different person.
3. The above-referenced knowledge requirement was not established as an element at the time of the Defendant's plea colloquy, and cannot in fact be established, and therefore, it would be fair and just to allow the Defendant to withdraw her former plea of guilty to Count 2.

4. The undersigned has spoken with AUSA Peter Deegan, and the Government does not resist this motion.

Respectfully submitted,

/s/
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PROOF OF SERVICE

I hereby certify that on May 4, 2009,
I electronically filed the foregoing with
the Clerk of Court using the ECF system
which will send notification of such
filing to the following:

Peter Deegan
Assistant U.S. Attorney
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By: /s/ Dawn Poppens